



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 22, 2016
MAHS Docket No.: 16-002717

[REDACTED]
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ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 19, 2016, from Lansing, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator [REDACTED]

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

PROCEDURAL HISTORY

1. The Department submitted Exhibit A, pages 1-223 without objection. (Dept. Exh. A, pp 1-223).
2. Petitioner submitted Exhibits 1-7 with no objections. (Petitioner Ex. 1-7).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 21, 2015, Petitioner applied for SDA.
2. On December 23, 2015, the Medical Review Team (MRT) denied Petitioner's SDA application. (Dept. Exh. A, pp 4-11).

3. On February 2, 2016, the Department sent Petitioner notice that his application was denied beginning August 15, 2015 ongoing. (Dept. Exh. A, pp 222-223).
4. On February 24, 2016, Petitioner filed a hearing request to contest the Department's negative action.
5. Petitioner has a history of depression, lumbago, parathesia, degenerative joint disease, bilateral foraminal narrowing, HIV with a history of AIDS, migraines and MRSA.
6. On April 10, 2012, Petitioner's primary care physician wrote a letter on behalf of Petitioner. The physician indicated that an MRI in June, 2009 revealed a moderate sized disc protrusion at L5-S1 at L5-S1 compressing the right S1 nerve. The physician indicated that Petitioner developed profound depression and began therapy. The physician opined that Petitioner was totally disabled based on his unrelenting severe back pain and chronic major depression. (Petitioner Exh. 2).
7. On March 20, 2014, Petitioner's primary care physician completed a Physical Residual Function Capacity Assessment on Petitioner's behalf. Petitioner was diagnosed with lumbago and associated paresthesias, degenerative joint disease and bilateral foraminal narrowing. The physician opined Petitioner was unable to work at this time. (Petitioner Exh. 1).
8. On November 11, 2015, Petitioner underwent an independent psychological evaluation on behalf of the Department. Petitioner was diagnosed with Major Depressive Disorder, Recurrent, Severe with psychotic features; Generalized Anxiety Disorder and a possible learning disability. The psychologist opined that the Petitioner was clearly unable to manage detailed or complex tasks, nor could he manage simple repetitive tasks on a sustained basis at this time. Petitioner is not able to work effectively with other people and he is not able to manage common work stressors appropriately at this time. His symptoms are severe and in need of immediate and on-going attention. He responds to internal stimuli and is paranoid, highly anxious and suicidal. Prognosis is guarded. (Dept. Exh. A, pp 37-43).
9. Petitioner is a ■-year-old man born on ■■■■■■. He is 5'11" and weighs 205 pounds. He has a ninth grade education. He last worked in April, 2009, as a manager.
10. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
11. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

12. Petitioner's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

A person is disabled for SDA purposes if he or she:

- Receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- Resides in a qualified Special Living Arrangement facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS), see Medical Certification of Disability. BEM 261, pp 1-2 (7/1/2014).

"Disability" is:

. . . the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. [SDA = 90 day duration].

[As Judge] We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. 20 CFR 416.927(e).

Petitioner is diagnosed with depression, lumbago, parathesia, degenerative joint disease, bilateral foraminal narrowing, tonic/clonic seizures, high blood pressure, irritable bowel syndrome, gastroesophageal reflux disease, HIV positive with a history of AIDS, migraines and MRSA.

Since 2012, numerous physicians and a psychologist have opined that Petitioner is unable to work based on his physical and mental disabilities. In November, 2015, the Psychologist the Department referred Petitioner too, also opined that Petitioner is unable to work at this time and his prognosis is poor. This is consistent with Petitioner's credible testimony.

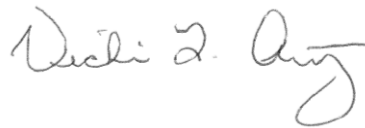
Therefore, based on the credible testimony and medical records submitted at hearing, this Administrative Law Judge finds Claimant was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Claimant's July 21, 2015 SDA application cannot be upheld.

DECISION AND ORDER

Accordingly, the Department's determination is **REVERSED**.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process Petitioner's July 21, 2015 SDA application, and shall award him all the benefits he may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Petitioner's medical condition for improvement in April, 2017, unless his Social Security Administration disability status is approved by that time.
3. The Department shall obtain updated medical evidence from Petitioner's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review.



VLA/db

Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

Petitioner

[REDACTED]
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